IN THE HIGH COURT OF JUDICATURE AT BOMBAY

O. O. C. J.

WRIT PETITION NO.2839 OF 2004

Shri. Ananthnatji Maharaj Jain Temple ..Petitioner.

Vs.

Bombay Labour Union & anr. ..Respondents.

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None for the Petitioner.

Mr.P.G.Lad for Respondent No.1.

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CORAM : DR.D.Y.CHANDRACHUD, J.

4th April, 2005.

P.C. :

1. The Petitioner is a public trust registered under the Bombay Public Trust Act, 1950 and is stated to be engaged in welfare activities for those who practice and profess Jainism. The trust maintains several Jain temples and Upashrayas. For this purpose, it engages the services of several employees including those who render duties in

connection with the work of sweeping, cleaning and security. The First Respondent submitted a Charter of demands on 22nd October, 1991. Since the disputes were not resolved in conciliation, the appropriate government made a reference to adjudication, being Reference IT 132 of 1991. One of the objections of the Petitioner to the maintainability of the reference was that the First Respondent is not an industry within the meaning of 2(j) of the Industrial Disputes Act, 1947. The reference has culminated in the impugned award of the Industrial Tribunal dated 14th October, 2003. The Industrial Tribunal held that the Petitioner is an industry. The claims of the First Respondent were basically in relation to a revision of terms and conditions of service including wages. The Industrial Tribunal noted that no evidence was brought on the record by the Union on the basis of the principles of region-cum-industry so as to enable the Tribunal to consider what were the conditions of service that were prevalent in similar other establishments. The Industrial Tribunal relied upon an award in a matter which has been referred to in the award in this case as the Hydre Engineers' case.

2. The submission of counsel for the Petitioner is that (i) the Petitioner's establishment is not an industry within the meaning of Section 2(j) and (ii) that in any event there was absolutely no material which sustained the application of the region-cum- industry principle for revising the wages and conditions of service in the present case.

3. At the hearing, learned counsel for the contesting parties agreed that without prejudice to the contentions of the Petitioner that the establishment is not an industry, it would be appropriate to remand the matter back to the Industrial Tribunal so as to enable the First Respondent to lead such evidence as it may be advised in support of the demand for wage revision with reference to the region-cum-industry principle. The submission which has been made before the Court is eminently fair and proper. The Tribunal has adverted to the position that as a matter of fact, no evidence was forthcoming on the basis of the region-cum-industry principle. In fairness, it would be appropriate to give the First

Respondent an opportunity to lead some cogent evidence to sustain the plea for wage revision. The Petition is accordingly disposed of by consent by quashing and setting aside the impugned award of the Industrial Tribunal dated 14th October, 2003. The proceeding shall stand remitted back to the Industrial Tribunal. The parties shall appear before the Tribunal on 19th April, 2005 for receiving further directions. It would be open to the First Respondent to lead such further evidence as it may seek to rely upon before the Industrial Tribunal and any such application made by the First Respondent shall be considered in accordance with law. The Tribunal is requested to expedite the disposal of the reference and to endeavour to do so by 30th November, 2005. The Petition is accordingly disposed of. There shall be no order as to costs.